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09/871,697	06/04/2001	Shinji Yoko	024607-5002	9086

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EXAMINER

BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/871,697

Applicant(s)

YOKO ET AL.

Examiner

Andre Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Non-final office action is in response to Applicant's amendment filed December 19, 2005. Claims 1, 9, 12, 15, and 24-35 have been amended. Claims 1-35 are pending.
2. The previously pending objections to claims 1 and 12 have been withdrawn.
The previously pending rejections to claims 1-14 are under 35 U.S.C. 101 have been withdrawn, however there is a new rejection under 35 U.S.C. 101, as seen below.
3. Applicant's arguments filed December 19, 2005 have been fully considered but they are not persuasive and any changes to the rejections have been necessitated by Applicant's amendments to the claims.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. Claims 1-7 and 15-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In order to be considered useful, the claimed

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invention must possess a practical application. In order to be concrete, the result must be assured and reproducible. In order to be tangible, the result must involve more than a manipulation of an abstract idea.

In the present case, independent claims 1 and 15 do not provide a concrete result. The claims define and store major objectives according to one or more parameter and define and store minor objectives based on the major objectives, managing (manipulating) the major and minor objectives. However, the subjective nature of the claim language, specifically the verbiage "managing" (claim 1) and "manipulating" (claim 15), results in the invention lacking concreteness, since the result is neither assured nor reproducible by a party attempting to practice the invention. Claims 2-7 and 16-23 are rejected based upon the same rationale.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7 and 15-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 1 is rendered vague and indefinite for use of the term "managing" in line 9 of the claim. It is unclear what Applicant means by the term "managing," since the term has various meaning. Further, one would be unable to

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ascertain when the claim would be infringed, based upon the vague use of the term.

Claims 2-7 are rejected based upon the same rational.

Independent claim 15 is rendered vague and indefinite for use of the term "manipulating" in line 8 of the claim. It is unclear what Applicant means by the term "manipulating," since the term has various meaning. Further, one would be unable to ascertain when the claim would be infringed, based upon the vague use of the term. Claims 16-23 are rejected based upon the same rational.

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

9. Claims 1-11, 13-18, and 20-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Cardwell et al (USPN 6,895,403), in view of Selling by Objective (May 1984).

As per claim 1, Cardwell et al disclose a multi-dimensional matrix (i.e., providing multiple layers of an organization, including creation of a data table with multiple objectives and goals, column 2, lines 20-25) method for managing an objectives-based business plan (i.e., determination of the business purpose and strategy for the organization, column 5, lines 19-23), the method comprising the steps of: (a) defining major objectives according to one or more parameters (i.e., business objective of the business entity, column 2, lines 37-41); (b) storing said major

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objectives in a first database (i.e., informational database, column 2, lines 37-41); (c) defining minor objectives based on the major objectives, wherein said minor objectives are defined according to one or more parameters (i.e., creating project and associated project goals based on business objective, column 2, lines 47-51), (d) storing said minor objectives in a second database (i.e., second informational database, column 2, lines 47-51); and (e) managing said major objectives and said minor objectives (i.e., allowing open access to and between the informational databases, column 2, lines 56-59).

Cardwell et al does not disclose major and minor objectives defined according to one or more parameters on four axes simultaneously and managing the objectives on four axes simultaneously. Selling by Objective (SBO) discloses an action plan based upon objectives and sub-objectives (§§ 24-25), wherein you can determine and manage the objectives based on considerations (i.e., axes) including territory, product line, type of customer (i.e., application), and by firm (i.e., account, §§ 21-23). Both Cardwell et al and SBO are concerned with an action plan based upon objectives, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include major and minor objectives defined and managed according to one or more parameters on four axes simultaneously in Cardwell et al, as seen in SBO, as an effective means of determining an effective goal and action plan, as disclosed by SBO (§§ 24-25).

As per claim 2, Cardwell et al disclose assigning each major objective to a manager (i.e., team leaders, column 6, lines 57-59).

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As per claims 3 and 11, Cardwell et al disclose said major objectives include a goal and a plan for achieving said goal (column 5, lines 35-37).

As per claims 4 and 13, Cardwell et al disclose said parameters include a product, a territory, an application, and an account. SBO discloses an action plan based upon objectives and sub-objectives (§§ 24-25) and parameters of the objective including territory, product line, type of customer (i.e., account), and the specific type of operation (§§ 21-22). Both Cardwell et al and SBO are concerned with an action plan based upon objectives, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a product, a territory, an application, and an account in Cardwell et al, as seen in SBO, as an effective first step in determining your objectives, as disclosed by SBO (§§ 20).

As per claim 5, Cardwell et al disclose defining minor objectives based on one major objective (i.e., creating project and associated project goals based on business objective, column 2, lines 47-51).

As per claim 6, Cardwell et al disclose the steps of assigning each major objective to a manager and assigning each related minor objective to at least one member of the manager's team (i.e., authority level describes what each team member is responsible for, column 8, lines 51-53).

As per claims 7 and 14, Cardwell et al disclose tracking the major objectives and minor objectives (i.e., updating and tracking of deliverables related to project goals and objective, column 8, lines 55-59).

As per claim 8, Cardwell et al disclose having one or more managers implement said major objectives and having one or more members of the manager's team implement said minor objectives (i.e., executives create teams and team leaders to organize and direct business objectives, column 6, lines 57-61).

As per claim 9, Cardwell et al disclose multi-dimensional matrix (i.e., providing multiple layers of an organization, including creation of a data table with multiple objectives and goals, column 2, lines 20-25) method for managing an objectives-based business plan (i.e., determination of the business purpose and strategy for the organization, column 5, lines 19-23), the method comprising the steps of; (a) defining major objectives according to one or more parameters on four axes simultaneously (i.e., business objective of the business entity, column 2, lines 37-41); (b) defining minor objectives based on the major objectives, wherein said minor objectives are defined according to one or more parameters on four axes simultaneously (i.e., creating project and associated project goals based on business objective, column 2, lines 47-51); (c) implementing said major objectives and said minor objectives, wherein each major objective is implemented by at least one manager and wherein said related minor objectives are implemented by at least one member of the at least one manager's team (i.e., executives create teams and team leaders to organize and direct business objectives, column 6, lines 57-61); (d) managing said major objectives and said minor objectives (i.e., allowing open access to and between the informational databases, column 2, lines 56-59); and (e) evaluating the at least one manager's performance in achieving said major

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objectives and evaluating the team members' performance in achieving the related minor objectives (i.e., evaluation criteria, based upon project deliverables, column 7, lines 63 and column 8, lines 43-45 and 54-55).

Cardwell et al does not disclose major and minor objectives defined according to one or more parameters on four axes simultaneously. Selling by Objective (SBO) discloses an action plan based upon objectives and sub-objectives (§ 24-25), wherein you can determine and manage the objectives based on considerations (i.e., axes) including territory, product line, type of customer (i.e., application), and by firm (i.e., account, §§ 21-23). Both Cardwell et al and SBO are concerned with an action plan based upon objectives, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include major and minor objectives defined according to one or more parameters on four axes simultaneously in Cardwell et al, as seen in SBO, as an effective means of determining an effective goal and action plan, as disclosed by SBO (§§ 24-25).

As per claim 10, Cardwell et al disclose having each manager responsible for a parameter propose a major objective and having senior management approve said major objectives (i.e., process allows upper management to have as little or much control as required, thus allowing team leaders to determine priorities, column 6, lines 64-67).

Claims 15-17 are rejected based upon the rejection of claims 1, 3, and 4, respectively, since they are the system claims corresponding to the method claims.

As per claim 18, Cardwell et al disclose communication tools for exchanging information regarding said major objectives and said minor objectives (i.e., open access to and between the informational databases, column 2, lines 45-46).

As per claim 20, Cardwell et al disclose data management tools for tracking, measuring, and displaying content of said first database and said second database (i.e., open access to and between the informational databases including printout of screenshots as seen in figures 1-3).

As per claim 21, Cardwell et al disclose data management tools includes a management system for tracking administrative functions (i.e., allowing all levels of an organization to be aware of broad goals and priorities, column 11, lines 61-67).

As per claim 22, Cardwell et al disclose a financial indicator system for tracking the status of one or more sales indicators (i.e., financial performance results, Example A and figure 1).

As per claim 23, Cardwell et al disclose an inquiry system for tracking the status of one or more orders (i.e., tracking the status of measures and sub-measures, column 6, lines 46-48).

As per claim 30, Cardwell et al disclose a method for managing corporate objectives in multi-dimensional matrix (i.e., determination of the business purpose and strategy for the organization, including multiple critical measures axes, column 5, lines 19-23 and figure 1), comprising the steps of prompting to input an actual performance including actual money or volume of sales performance and actual sales activities corresponding to said initial target for a predetermined term till

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predetermined due date by using a local and/or remote terminal (i.e., entering of critical measures, including current monthly net income in comparison to expectations, figure 1, and due dates of deliverables, figure 2); receiving said actual performance; storing said received actual performance in the database on four axes simultaneously (i.e., updating informational database, column 2, lines 65-67); managing an achievement of the target by reading the said initial target and said actual performance (i.e., each measure is tracked indicating progress, column 6, lines 46-48) and selecting any one or more from said four axes simultaneously and displaying said initial target and/or said actual performance along to the selected axis or axes on the local and/or remote terminal (i.e., selection of an account, i.e., Market Share in Garfield County, including financial performance results, figure 1).

Cardwell et al does not explicitly disclose storing on four axes simultaneously an initial target including at least a sales goal and an action plan in a database in the form of multi-dimensional matrix consisting of four axes of a product, a territory, an application and an account. Selling by Objective (SBO) discloses an action plan based upon objectives and sub-objectives (§§ 24-25), wherein you can determine and manage the objectives based on considerations (i.e., axes) including territory, product line, type of customer (i.e., application), and by firm (i.e., account, §§ 21-23). Both Cardwell et al and SBO are concerned with an action plan based upon objectives, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a product, a territory, an

application, and an account in Cardwell et al, as seen in SBO, as an effective first step in determining your objectives, as disclosed by SBO (§ 20).

As per claim 31, Cardwell et al disclose managing a sales achievement by comparing said initial target with said actual performance corresponding to said initial target and based on this comparison sorting said initial target and/or said actual performance and displaying them on the local or remote terminal (i.e., each measure is tracked, wherein the current is compared to minimum, meets and exceeds, so executives can quickly track the issues, column 6, lines 47-50 and figure 1).

As per claim 32, Cardwell et al disclose the step of managing a sales achievement further comprises; changing a display style of said initial target and/or said actual performance based on said comparison and displaying them on the local and/or remote terminal (i.e., financial performance results, including current, minimum, meets, and exceeds, Example A and figure 1).

As per claim 33, neither Cardwell et al nor SBO explicitly disclose said actual performance further comprises a progress code, expressing progress status, including at least 'on the schedule', 'behind the schedule' and 'completed', and managing progress by displaying the said actual performance based on the said progress code and/or any one of said four axes on the local and/or remote terminal. However, this terminology is old and well known in project management, therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include expressing progress status, including at least 'on the

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schedule', 'behind the schedule' and 'completed' in Cardwell et al, as an effective means of determining performance status.

As per claims 34 and 35, Cardwell et al disclose altering said initial target based on said actual performance and/or business trend (i.e., executive can view the organizational chart and decide to change one of the business priorities, column 12, lines 33-41).

Claims 24-29 are rejected based upon the rejection of claims 30-35, respectively, since they are the system claims corresponding to the method claims.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cardwell et al (USPN 6,895,403), in view of Jannette et al (USPN 6,036,345).

As per claim 12, Cardwell et al does not explicitly disclose (a) having the at least one manager propose minor objectives for the at least one member of the manager's team; (b) having the at least one member of the manager's team propose minor objectives; and (c) finalizing said minor objectives. Jannette et al disclose product development, component assembly, and component teams, wherein each has design and engineering responsibility, thus determining it's own objectives. Both Cardwell et al and Jannette et al effective organizational management and Cardwell et al discloses the process allowing the upper management to have as little or much input and control as required (column 6, lines 64-67), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the team manager and members determining there own objectives in

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Cardwell et al, as seen in Jannette et al, as an effective means of empowering the individual team and team members.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cardwell et al (USPN 6,895,403).

As per claim 19, Cardwell et al does not explicitly disclose an integrated e-mail tool that stores a message regarding a major objective or minor objective in the corresponding database. However, Cardwell et al disclose that any type of software or computer system that will allow information to be shared can be used (column 12, lines 21-24), wherein e-mail is an old and well-known means of communication. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include e-mail in Cardwell et al, as an effective means of communication.

Response to Arguments

12. In the Remarks, with respect to claims 1 and 9, Applicant argues that Cardwell et al teaches away from a multi dimensional matrix. The Examiner respectfully disagrees and submits that Cardwell et al disclose providing multiple layers of an organization, including creation of a data table with multiple objectives and goals (column 2, lines 20-25), and determination of the business purpose and strategy for the organization, including determining the purpose, economic goals, emotional goals, core values, and a strategy (i.e., multiple critical measures axes, column 5,

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lines 19-30). Applicant also argues that Cardwell et al does not disclose or suggest managing an objectives based plan defining major and minor objectives according to one or more parameters on four axes simultaneously. The Examiner submits SBO as disclosing that limitation, as seen above.

Applicant also argues that the parameters used to measure each objective in SBO are merely sub-objectives of an isolated objective, thus teaching away from defining and managing objectives on four axes simultaneously. The Examiner respectfully disagrees and submits that SBO discloses an action plan based upon objectives and sub-objectives (§§ 24-25), wherein you can determine and manage the objectives based on considerations (i.e., axes) including territory, product line, type of customer (i.e., application), and by firm (i.e., account, §§ 21-23). As such, the objectives and sub-objectives, being based upon the four considerations (i.e., axes) are indeed defined and managed on four axes simultaneously.

Conclusion

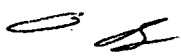
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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adb
March 4, 2006


ANDRE BOYCE
PATENT EXAMINER
A.U. 3623